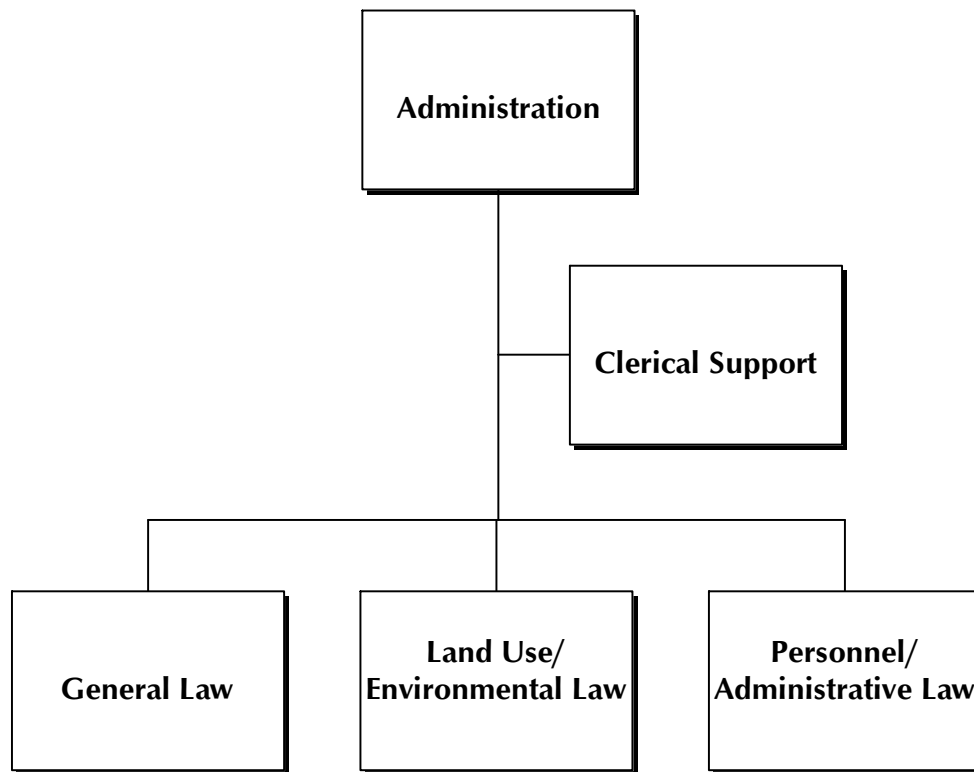


# Office of the County Attorney



## Mission

To provide the best possible legal counsel and representation to County officials and agencies in support of their mission to protect and enhance the community.

## Focus

The Office is divided into three sections: the General Law section; the Land Use/Environmental Law section; and the Personnel/Administrative Law section. The General Law section prosecutes as civil matters delinquent tax claims, defends erroneous tax assessment lawsuits, advises County departments on highly complex financial matters and bond issues, including the formation of special tax and transportation improvement districts, interacts with the Virginia General Assembly on proposed legislation, drafts proposed County ordinances, reviews County contracts and issues opinions to the governing body and the County Government on all manner of subjects. The Office maintains intensive collection and litigation efforts regarding tax delinquencies and bankruptcies. In addition, high office vacancy rates often cause owners to claim that their real estate tax assessments, which typically lag the market, are erroneously high. When those claims are not resolved administratively, litigation against the County often ensues.

### THINKING STRATEGICALLY

Strategic issues for the Department include:



- Processing claims against the County to a favorable conclusion;
- Processing cases involving the abuse and neglect of children and the elderly;
- Continuing commitment to promote revitalization of older neighborhoods and housing opportunities for the aging population;
- Attracting and retaining talented attorneys to work in the public sector; and
- Assuming a leadership role in facilitating transit in the Dulles corridor and in developing public-private partnerships to effect major highway improvements.

## Office of the County Attorney




The Land Use/Environmental Law section defends land use decisions of the Board of Supervisors, drafts and enforces zoning ordinances and land development regulations, brings condemnation actions, sues defaulting developers, advises County departments on environmental issues, and reviews subdivision documents affecting County property interests. The shrinking inventory of land in the County on which development can take place increases infill development and brings with it its attendant problems. When land that was passed over earlier becomes the subject of a rezoning application, neighbors, who have come to consider the tract as perpetual green space, frequently oppose the application and will cite all of the problems that led to the property being passed over the first time. If the Board of Supervisors approves such an application, litigation challenging the decision becomes likely. In addition, new developments may have an adverse environmental impact on neighboring developments. As a result, the Land Use/Environmental Law section may be called upon to enforce environmental constraints such as the County's erosion and sediment control regulations.

The Personnel/Administrative Law section defends County personnel decisions before administrative hearings and in litigation, provides counsel to the Fairfax County Redevelopment and Housing Authority and the Park Authority, civilly prosecutes cases involving abuse and neglect of children and elders in the Juvenile and Domestic Relations District Court, drafts personnel and retirement ordinances, and defends the County and its employees in tort actions. A growing population density and an aging of that population impact this section in that accidents involving County vehicles are more likely as are the filing of tort lawsuits. More people also means more instances of abuse and neglect of children and elders, the results of which currently occupy the efforts of five full-time attorneys. The aging population, many of whom will be on lower fixed incomes during their retirement years, will require the County to assist them in meeting their housing needs and will result in more work for the section in its provision of legal advice to the Redevelopment and Housing Authority.

### New Initiatives and Recent Accomplishments in Support of the Fairfax County Vision

 <b>Building Livable Spaces</b>	<b>Recent Success</b>	<b>FY 2006 Initiative</b>	<b>Cost Center</b>
Continue pursuing a greater number of civil suits against zoning violators, including those brought in conjunction with the work of the Hoarding Task Force.	✓	✓	Land Use/Environmental
Maintain increased litigation efforts to recover funds necessary to complete projects in which developers have defaulted.	✓	✓	Land Use/Environmental
 <b>Connecting People and Places</b>	<b>Recent Success</b>	<b>FY 2006 Initiative</b>	<b>Cost Center</b>
Worked with landowners in the eastern portion of the Dulles corridor to develop a petition to present to the Board of Supervisors for the creation of a Transportation Improvement District to fund the local share of the cost of building rail to Dulles.	✓		General Law
Continue to work with landowners in the western portion of the Dulles corridor to develop a petition to present to the Board of Supervisors for the creation of a Transportation Improvement District to fund the local share of the cost of building rail to Dulles.	✓	✓	General Law

## Office of the County Attorney

 <b>Practicing Environmental Stewardship</b>	<b>Recent Success</b>	<b>FY 2006 Initiative</b>	<b>Cost Center</b>
Initiated lawsuits to rectify erosion and sediment control violations by developers.	<input checked="" type="checkbox"/>		Land Use/ Environmental
Continue to prosecute civil suits in the Cinder Bed Road area to eradicate numerous zoning violations and illegal industrial uses in Resource Protection Areas.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Land Use/ Environmental
 <b>Creating a Culture of Engagement</b>	<b>Recent Success</b>	<b>FY 2006 Initiative</b>	<b>Cost Center</b>
Continue to participate in numerous community dialogues sponsored by members of the Board of Supervisors, the Fairfax Bar Association, and the Virginia State Bar.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Agencywide
 <b>Exercising Corporate Stewardship</b>	<b>Recent Success</b>	<b>FY 2006 Initiative</b>	<b>Cost Center</b>
Continue to successfully defend high-dollar personal injury claims brought against the County.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Personnel/ Administrative Law
Continue to successfully defend tax assessment cases to preserve County tax dollars and continue to prosecute tax delinquents in order to collect revenue owed to the County.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	General Law
Negotiated a settlement of various fair labor standards claims brought by several police officers on terms favorable to the County.	<input checked="" type="checkbox"/>		Personnel/ Administrative Law

# Office of the County Attorney

## Budget and Staff Resources



Agency Summary					
Category	FY 2004 Actual	FY 2005 Adopted Budget Plan	FY 2005 Revised Budget Plan	FY 2006 Advertised Budget Plan	FY 2006 Adopted Budget Plan
Authorized Positions/Staff Years					
Regular	64/ 64	64/ 64	64/ 64	64/ 64	64/ 64
Expenditures:					
Personnel Services	\$5,035,445	\$5,367,151	\$5,267,151	\$5,552,750	\$5,552,750
Operating Expenses	834,214	542,472	788,104	566,940	566,940
Capital Equipment	0	0	0	0	0
<b>Subtotal</b>	<b>\$5,869,659</b>	<b>\$5,909,623</b>	<b>\$6,055,255</b>	<b>\$6,119,690</b>	<b>\$6,119,690</b>
Less:					
Recovered Costs	(\$368,513)	(\$382,736)	(\$382,736)	(\$397,240)	(\$397,240)
<b>Total Expenditures</b>	<b>\$5,501,146</b>	<b>\$5,526,887</b>	<b>\$5,672,519</b>	<b>\$5,722,450</b>	<b>\$5,722,450</b>
Income:					
Legal Counsel to FCPS	\$35,231	\$35,997	\$35,997	\$35,997	\$35,997
County Attorney Fees	256	1,000	1,000	1,000	1,000
Litigation Proceeds	146,560	46,000	175,000	92,613	92,613
<b>Total Income</b>	<b>\$182,047</b>	<b>\$82,997</b>	<b>\$211,997</b>	<b>\$129,610</b>	<b>\$129,610</b>
<b>Net Cost to the County</b>	<b>\$5,319,099</b>	<b>\$5,443,890</b>	<b>\$5,460,522</b>	<b>\$5,592,840</b>	<b>\$5,592,840</b>

Position Summary		
<u>Administration</u>	<u>Land Use/ Environmental Law</u>	<u>Personnel/ Administrative Law</u>
1 County Attorney	1 Deputy County Attorney	1 Deputy County Attorney
2 Administrative Associates	2 Senior Assistant County Attorneys	2 Senior Assistant County Attorneys
1 Network Analyst II	3 Assistant County Attorneys V	1 Assistant County Attorney VI
	5 Assistant County Attorneys IV	5 Assistant County Attorneys V
	3 Paralegal Assistants	6 Assistant County Attorneys IV
		2 Paralegal Assistants
<u>Clerical Support</u>	<u>General Law</u>	
11 Administrative Assistants IV	1 Deputy County Attorney	
1 Administrative Assistant III	1 Senior Assistant County Attorney	
1 Administrative Assistant I	3 Assistant County Attorneys VI	
	2 Assistant County Attorneys V	
	4 Assistant County Attorneys IV	
	5 Paralegal Assistants	
<b>TOTAL POSITIONS</b>		
<b>64 Positions / 64.0 Staff Years</b>		

## FY 2006 Funding Adjustments

The following funding adjustments from the FY 2005 Revised Budget Plan are necessary to support the FY 2006 program:

- ◆ **Employee Compensation** **\$171,095**  
An increase of \$185,599 in Personnel Services is associated with salary adjustments necessary to support the County's compensation program. This increase is partially offset by an increase of \$14,504 in Recovered Costs.
- ◆ **Operating Expense Adjustments** **(\$121,164)**  
A net decrease of \$121,164 in Operating Expenses is due primarily to a decrease of \$145,632 for one-time expenses as part of the FY 2004 Carryover Review, offset by an increase of \$13,125 for the annual maintenance contract of a new case management system and \$11,343 in costs associated with County information technology-related changes and Department of Vehicle Services' costs.

# Office of the County Attorney

## Board of Supervisors' Adjustments

*The following funding adjustments reflect all changes to the FY 2006 Advertised Budget Plan, as approved by the Board of Supervisors on April 25, 2005:*

- ◆ The Board of Supervisors made no adjustments to this agency.

## Changes to FY 2005 Adopted Budget Plan

*The following funding adjustments reflect all approved changes in the FY 2005 Revised Budget Plan since passage of the FY 2005 Adopted Budget Plan. Included are all adjustments made as part of the FY 2004 Carryover Review and all other approved changes through December 31, 2004:*

- ◆ **Carryover Adjustments** **\$145,632**  
As part of the FY 2004 Carryover Review, the Board of Supervisors approved encumbered funding of \$145,632 in Operating Expenses.

*The following funding adjustments reflect all approved changes to the FY 2005 Revised Budget Plan from January 1, 2005 through April 18, 2005. Included are all adjustments made as part of the FY 2005 Third Quarter Review:*

- ◆ The Board of Supervisors made no adjustments to this agency.

## Key Performance Measures

### Objectives

- ◆ To ensure that the civil litigation brought by or against the County of Fairfax and its constituent entities in state or federal, trial or appellate courts and administrative tribunals is consistently processed to a favorable conclusion by maintaining the percentage of lawsuits concluded favorably at 97 percent.
- ◆ To maintain the response time to all requests for legal opinions and advice from the Board of Supervisors, other boards, authorities or commissions, the County Executive, and County agencies at 86 percent of responses meeting timeliness standards.
- ◆ To forward a final draft Bill of Complaint to the Zoning Administrator within 40 days of the request for zoning enforcement 90 percent of the time.
- ◆ To maintain the recovery rate of amounts referred for collection by the Department of Tax Administration at a minimum of 63 percent.

# Office of the County Attorney

Indicator	Prior Year Actuals			Current Estimate	Future Estimate
	FY 2002 Actual	FY 2003 Actual	FY 2004 Estimate/Actual	FY 2005	FY 2006
<b>Output:</b>					
Lawsuits completed	769	1,174	725 / 924	725	725
Advisory responses completed	3,634	3,281	3,600 / 3,155	3,155	3,155
Requests for zoning enforcement actions filed	54	51	48 / 62	52	52
Dollars collected for real estate	\$1,100,274	\$1,535,351	\$1,100,000 / \$200,450	\$1,100,000	\$1,100,000
Dollars collected for BPP, PP, BPOL, Other (1)	\$1,168,623	\$3,759,330	\$3,000,000 / \$4,176,537	\$3,000,000	\$3,000,000
Total dollars collected	\$2,268,897	\$5,294,681	\$4,100,000 / \$4,376,987	\$4,100,000	\$4,100,000
<b>Efficiency:</b>					
Lawsuits completed per staff	12	18	11 / 14	11	11
Responses provided per staff	57	51	56 / 49	49	49
Zoning enforcement actions filed per staff assigned	22	20	19 / 25	19	19
Salaries expended per collection amount	22%	10%	13% / 12%	13%	13%
<b>Service Quality:</b>					
Percent of lawsuits concluded favorably	97%	98%	97% / 97%	97%	97%
Percent of advisory responses meeting timeliness standards for BOS requests (14 days)	94%	96%	96% / 91%	96%	96%
Percent of advisory responses meeting timeliness standards for subdivision review (21 days)	100%	99%	95% / 100%	95%	95%
Percent of advisory responses meeting timeliness standards for legal opinion (30 days)	78%	65%	80% / 89%	80%	80%
Percent of advisory responses meeting timeliness standards for Freedom of Information Act requests (according to state law)	100%	100%	100% / 99%	100%	100%
Percent of advisory responses meeting timeliness standards for other requests (1 year)	76%	80%	80% / 86%	80%	80%
Percent of advisory responses meeting timeliness standards overall	81%	84%	85% / 88%	86%	86%
Percent of zoning enforcement requests meeting 40-day filing standard	80%	100%	90% / 61%	80%	90%
Collection rate (Total BPOL, BPP, PP, collected in current year divided by total BPOL, BPP, PP referred in previous year) (1)	71%	85%	63% / 80%	63%	63%

## Office of the County Attorney

Indicator	Prior Year Actuals			Current Estimate	Future Estimate
	FY 2002 Actual	FY 2003 Actual	FY 2004 Estimate/Actual	FY 2005	FY 2006
<b>Outcome:</b>					
Percentage point change of lawsuits concluded favorably during the fiscal year	0	1	0 / (1)	0	0
Percentage point change of responses meeting timeliness standards	(12)	3	1 / 4	(2)	0
Percentage point change in zoning enforcement requests meeting 40-day filing standard	(17)	20	(10) / (39)	19	10
Percentage point change in recovery of amounts referred for collection	19	14	(22) / (5)	(17)	0

(1) BPP = Business Personal Property Tax; PP = Personal Property Tax; BPOL = Business, Professional and Occupational License Tax.

### Performance Measurement Results

In FY 2004, 97 percent of lawsuits brought by or against the County were concluded favorably, thereby meeting the objective. The Office of the County Attorney anticipates a continued high percentage of favorably concluded lawsuits in fiscal years 2005 and 2006.

In FY 2004, the target of 90 percent for meeting the 40-day filing standard for Zoning Enforcement suits was not met. Although the attorneys in the Land Use Section drafted the bills of complaint and forwarded them to the Zoning Administrator in a timely manner, the recent change in zoning administrators resulted in a delay in their review prior to filing. Consequently, since there was a delay in their review and the authorization to file, some lawsuits were not filed in a timely manner. Although the Office hopes to maintain a high percentage rate in this area, factors such as needing to coordinate with other departments in addition to Zoning Enforcement may delay filings.

The dollar recovery rate on collection suits is based on delinquencies that are referred by the Department of Tax Administration to the Office of the County Attorney's target component and the amount recovered. In FY 2004, the collection rate was 80 percent, which exceeded the objective of 63 percent. The Office of the County Attorney does not expect the dollar recovery rate to be as high in FY 2005 and FY 2006, since more accounts with smaller dollar values are anticipated to be resolved, but the Office will still strive to meet its goal of a 63 percent collection rate. In addition, staffing changes in the target component have been made to focus on real estate delinquencies.

The response time to all requests for legal opinions and advice is based on responses to requests from the Board of Supervisors, other boards, authorities and commissions, the County Executive, and County departments. The percentage of advisory responses meeting timeliness standards was 88 percent overall in FY 2004, exceeding the goal of 85 percent. The Office of the County Attorney, having placed a greater emphasis on providing legal opinions within the established timeframe in FY 2004 and increasing the timeliness in that particular area by 24 percentage points from FY 2003, will attempt to improve response times to the Board of Supervisors' requests, which is set at 14 days.